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7  
 8 **UNITED STATES DISTRICT COURT**  
 9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

10  
 11 TIMOTHY D. LYKINS, an individual,

12 Plaintiff,

13 v.

14 GAVIN CHRISTOPHER NEWSOM,  
 in his official capacity as Governor of  
 15 the State of California; and ALEX  
 PADILLA, in his official capacity as  
 16 the Secretary of State of the State of  
 California,

17 Defendants.

Case No.

**COMPLAINT FOR DECLARATORY  
 AND INJUNCTIVE RELIEF RE: THE  
 CONSTITUTIONALITY OF THE  
 PRESIDENTIAL TAX  
 TRANSPARENCY AND  
 ACCOUNTABILITY ACT**

[VIOLATIONS OF THE 1<sup>ST</sup> AND 14<sup>TH</sup>  
 AMENDMENTS TO THE UNITED  
 STATES CONSTITUTION UNDER 28  
 U.S.C. § 1983]



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1 **I. INTRODUCTION**

2 1. No right is more precious in our constitutional republic than the right to  
3 vote for the most powerful person in the nation, and perhaps the world: the President  
4 of the United States. A citizen's constitutional voting and associational rights, which  
5 are the bedrock of our representative democracy, include the right to cast a  
6 meaningful vote at all stages of the electoral process – including state presidential  
7 primary elections. These fundamental voting and associational rights are all the  
8 more important in the context of a presidential primary, since only the President and  
9 Vice-President of the United States are elected nationwide. The state-by-state  
10 election of the United States President impacts a uniquely-important national interest  
11 because votes for that national office are interrelated with votes for the office by  
12 voters in other states around the county. A state presidential primary election  
13 campaign is an essential platform for the expression of views on contested national  
14 policy issues of the day. A presidential primary candidate serves as a rallying-point  
15 for like-minded citizens to associate together for their joint expression of their  
16 political views. Accordingly, a state ballot access law that imposes eligibility  
17 requirements upon a presidential candidate for a state primary election implicates  
18 fundamental constitutional rights of primary voters.

19 2. In violation of these fundamental rights – to vote and to associate with  
20 other voters and their supporters – effective July 30, 2019, the Democratic Party  
21 supermajority in the California state Legislature and Executive Branch abused their  
22 power by implementing SB 27, the so-called *Presidential Tax Transparency and*  
23 *Accountability Act*, which adds Section 6880 *et seq.* to the California Elections Code  
24 (the "Trump Ballot Act"). The Trump Ballot Act purports to require President  
25 Donald Trump to turn over his tax returns from the last five years for public  
26 disclosure, or be delisted from Republican Party primary ballots in advance of the  
27 2020 presidential election.

28



1           3.       The Democratic-dominated California state Government attempts to  
2 mask its invidious partisan purpose via pretextual reasons, couching its anti-Trump  
3 and anti-Republican primary ballot legislation as requiring "voter information"  
4 supposedly essential in the public interest, regardless of political affiliation.

5           4.       But the Trump Ballot Act is not an "even handed," "neutral," or  
6 "unbiased" statutory vehicle to obtain important information voters might need to  
7 assess presidential candidates in pre-election primaries. The superficial appearance  
8 of uniform application to primary candidates from all eligible political parties is a  
9 ruse. By imposing an unconstitutional condition impacting the primary ballot access  
10 of the incumbent President of the United States, the Trump Ballot Act's true intent  
11 and purpose is to suppress the vote of Trump supporters in California, up and down  
12 the line, effectively disenfranchising them in the 2020 presidential primary election.

13           5.       That naked abuse of political power, to suppress minority-party voting  
14 rights, should concern not only Republicans, but also Democrats, Green Party  
15 members, progressives, libertarians, Independents, and liberals. The right of  
16 ordinary citizens to vote and associate with their fellow citizens under the First and  
17 Fourteenth Amendments to the United States Constitution cannot be abridged by  
18 whichever party happens to control the states's legislature and executive branches, in  
19 order to manipulate the minority party's primary election process and outcome.

20           6.       In addition, the Trump Ballot Act contains an "urgency" clause and  
21 enacts Elections Code § 6883, which requires President Trump to produce his tax  
22 returns not later than 98 days before the March 3, 2020 primary. That date is fast  
23 approaching: November 26, 2019. (*See*  
24 [http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200SB27](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB27)).

25           7.       Consequently, the "urgent" Trump Ballot Act, in conjunction with the  
26 California Legislature's recent enactment of SB 568 (the "Prime Time Primary Act,"  
27 Cal. Elections Code §§ 316 *et seq.*), which advanced California's presidential  
28 primary election date three months, to super-Tuesday, March 20, 2020, imposes

1 unreasonably exigent timing pressures on voters whose constitutional rights are  
2 violated to seek to overturn the partisan Trump Ballot Act.

3 8. Remediating this unconstitutional and undue burden imposed on the  
4 minority party's primary operations and primary voting rights is the purpose of this  
5 lawsuit.

6 9. As elaborated below, the Court should enjoin the California Secretary of  
7 State and the State of California from implementing the Trump Ballot Act, and enter  
8 a declaratory judgment that it is unconstitutional. The Trump Ballot Act imposes an  
9 undue burden on the voting and associational rights of Republican primary voters  
10 (approximately 25% of California registered voters) in relation to the supposedly  
11 "neutral" state interests it advances. Plaintiff should be awarded his reasonable  
12 attorneys' fees under 28 U.S.C. § 1983.

13 **II. JURISDICTION AND VENUE**

14 10. This case arises under the United States Constitution and the laws of the  
15 United States and the State of California. This case presents federal questions within  
16 this Court's jurisdiction under Article III, Section 2 of the United States Constitution,  
17 the Presidential Elections Clause and the Presidential Qualifications Clause of  
18 Article II, Section 1 of the Constitution, as well as Plaintiffs' voting and associational  
19 rights, and due process rights, under the First and Fourteenth Amendments to the  
20 Constitution. This Court also has subject matter jurisdiction over this action pursuant  
21 to 28 U.S.C. §§ 1331 and 1343. This Court has jurisdiction to grant declaratory and  
22 injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202.

23 11. Venue is proper in the Western Division of the Central District of  
24 California under 28 U.S.C. § 1391, because Plaintiff resides here and a substantial  
25 part of the events or omissions giving rise to the constitutional claims asserted in this  
26 Complaint occurred in this District.

27 ///

28 ///



1 **III. PARTIES**

2 12. Plaintiff Timothy D. Lykins is a resident of the City and County of Los  
3 Angeles, within the Western Division of this District, and he is a citizen of the State  
4 of California, a taxpayer, a voter, and a registered Republican.

5 13. Defendant Gavin Christopher Newsom ("Governor Newsom"), in his  
6 official capacity as the Governor of the State of California, is charged with the  
7 execution of California law, including but not limited to its election laws.

8 14. Defendant Alex Padilla ("Secretary Padilla"), in his official capacity as  
9 the Secretary of State of California, is the supervisor and director of all election  
10 matters in California. Secretary Padilla has duties to oversee the election laws of  
11 California so as to ensure compliance with the United States Constitution and  
12 applicable law.

13 **IV. ARTICLE III STANDING**

14 15. As a California resident and Republican primary voter, Mr. Lykins has  
15 standing to challenge the constitutionality of the Trump Ballot Act because the  
16 impact of candidate eligibility requirements on him (and other voters) implicates  
17 basic constitutional rights. Mr. Lykins' right, as a citizen, to vote free from arbitrary  
18 impairment by state action is judicially recognized as a constitutional right under the  
19 First and Fourteenth Amendments. Ballot access restrictions, like those imposed by  
20 the Trump Ballot Act, impact the constitutionally-protected expressive and  
21 associational interests of Mr. Lykins and other like-minded voters who choose to  
22 associate together to express their support for a particular Presidential primary  
23 candidate – here, the incumbent President of the United States – because of the views  
24 he espouses and public policies he promotes.

25 16. Mr. Lykins and other California voters have a right to choose among  
26 candidates placed on their political party's primary ballot without unconstitutional  
27 exclusions or restrictions imposed by the dominant opposing party which controls the  
28 levers of government power. Accordingly, Mr. Lykins (and each other similarly

1 situated voter) suffers an Article III injury in fact when a Presidential candidate  
2 whom he supports is prevented from appearing on a ballot due to a pretextual ballot  
3 access condition based on thinly-disguised, invidious, and partisan motives.

4 **V. THE KEY CONSTITUTIONAL PROVISIONS AT ISSUE**

5 **A. The First Amendment**

6 17. The First Amendment to the United States Constitution provides as  
7 follows:

8 "Congress shall make no law respecting an establishment of religion, or  
9 prohibiting the free exercise thereof; or abridging the freedom of  
10 speech, or of the press; or the right of the people peaceably to assemble,  
11 and to petition the Government for a redress of grievances."

12 (U.S. Const., Amend. 1.)

13 **B. The Fourteenth Amendment**

14 18. The Fourteenth Amendment to the United States Constitution, often  
15 referred to as the "Due Process Clause," provides in pertinent part as follows:

16 Sec. 1. [Citizens of the United States.] All persons born or naturalized in  
17 the United States, and subject to the jurisdiction thereof, are citizens of  
18 the United States and of the State wherein they reside. No State shall  
19 make or enforce any law which shall abridge the privileges or  
20 immunities of citizens of the United States; nor shall any State deprive  
21 any person of life, liberty, or property, without due process of law; nor  
22 deny to any person within its jurisdiction the equal protection of the  
23 laws.

24 \* \* \*

25 Sec. 5. [Power to enforce amendment.] The Congress shall have the  
26 power to enforce, by appropriate legislation, the provisions of this  
27 article.

28 (U.S. Const., Amend. 14, §§ 1 & 5.)

1           **C.     The Presidential Qualifications Clause**

2           19.    The Framers of the United States Constitution endeavored to make sure  
3 that only loyal, mature persons could be elected President of the United States. To  
4 ensure this, they mandated in Article II, Section 1, clause 5 of our Constitution three –  
5 and only three – requirements for the Presidency, focusing on a candidate's age,  
6 residency, and citizenship (the "Presidential Qualifications Clause"):

7            "No Person except a natural born Citizen, or a Citizen of the United  
8 States, at the time of the Adoption of this Constitution, shall be eligible  
9 to the Office of President; neither shall any Person be eligible to that  
10 Office who shall not have attained to the Age of thirty five Years, and  
11 been fourteen Years a Resident within the United States."

12 (U.S. Const., art. II, § 1, cl. 5.)

13           **D.     The Presidential Elections Clause**

14           20.    The U.S. Constitution does not allow for the direct, popular vote by the  
15 people of the respective states for candidates for President of the United States.  
16 Instead, the Constitution establishes a mechanism for the election of a candidate for  
17 President from each respective state through the appointment of "electors" to the  
18 Electoral College (the "Presidential Elections Clause"):

19           [t]he executive Power shall be vested in a President of the United States  
20 of America. He [sic] shall... be elected, as follows... Each State shall  
21 appoint, in such Manner as the Legislature thereof may direct, a Number  
22 of Electors, equal to the whole Number of Senators and Representatives  
23 to which the State may be entitled in the Congress..."

24 (U.S. Const., art. II, § 1, para. 1-2.)

25           **VI.    THE POLITICAL AND LEGISLATIVE BACKGROUND**

26           **A.     Concise History of the Disclosure of Presidential Tax Returns**

27           21.    There is no doubt that President Trump has proven to be a controversial  
28 President. Concurrent with the Russian-collusion investigations, Democratic





1 representatives at the state and national levels have also launched numerous  
2 investigations and lawsuits seeking to force President Trump to turn over his federal  
3 tax returns. There is no federal statute expressly requiring that Presidential  
4 candidates disclose their tax returns to gain access to the ballot, whether in state or  
5 federal elections. Congress has had ample opportunity to consider passage of such a  
6 requirement, and has declined to do so.

7 22. Instead, most Presidents since 1973, when President Richard Nixon was  
8 in office, have voluntarily turned over their tax returns. Notably, in 1976, President  
9 Gerald Ford did not do so, opting instead to release a summary of his tax return.  
10 Then, during the 2016 presidential campaign, Donald Trump departed from this  
11 purely voluntary practice, declining to release his tax returns. He presently is  
12 fighting multiple lawsuits in several federal courts to prevent his tax returns from  
13 being turned over and made public, under 26 U.S.C. § 6103(f) and otherwise. Mr.  
14 Trump, like all American citizens, retains the right of privacy with respect to his tax  
15 returns, and there is no federal statute depriving him of that right. He complies, as  
16 must all Presidential candidates, with federal election financial disclosure laws.

17 **B. Concise History Of The Genesis of The California Trump Ballot Act**

18 23. A virtually identical version of the Trump Ballot Act – SB 149 – was  
19 vetoed by former California Governor Jerry Brown, who stated as follows:

20 "To the Members of the California State Senate:

21 I am returning Senate Act 149 without my signature.

22 This bill requires any candidate for president to disclose five  
23 years of his or her income tax returns before their name can be placed  
24 on California's primary election ballot.

25 Although tax returns are by law confidential, many presidential  
26 candidates have voluntarily released them. This bill is a response to  
27 President Trump's refusal to release his returns during the last election.

28 While I recognize the political attractiveness-even the merits-of

1 getting President Trump's tax returns, I worry about the political perils  
2 of individual states seeking to regulate presidential elections in this  
3 manner. First, it may not be constitutional. Second, it sets a "slippery  
4 slope" precedent. Today we require tax returns, but what would be next?  
5 Five years of health records? A certified birth certificate? High school  
6 report cards? And will these requirements vary depending on which  
7 political party is in power?

8 A qualified candidate's ability to appear on the ballot is  
9 fundamental to our democratic system. For that reason, I hesitate to start  
10 down a road that well might lead to an ever escalating set of differing  
11 state requirements for presidential candidates.

12 Sincerely,

13 Edmund G. Brown Jr."

14 ([http://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml?bill\\_id=201720180SB1](http://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml?bill_id=201720180SB1)  
15 49.)

16 24. Indeed, Defendant State of California's own Office of the Legislative  
17 Counsel concluded that SB 149 (the predecessor version of SB 27) would be  
18 unconstitutional if enacted. (Ops. Cal. Legis. Counsel, No. 1718407 (Sept. 7, 2017)  
19 Presidential Qualifications: Tax Return Disclosure.) That legal opinion has since  
20 "become unavailable" and is unavailable either on the Legislative Counsel's website  
21 or the California Legislature's bill status page, despite the State of California's  
22 general practice of preserving public records and providing access to such records  
23 online.

24 25. Both SB 27 and its vetoed predecessor bill, SB 148, admit that their  
25 primary purpose and intent is to target President Trump individually and force him to  
26 publicly disclose his tax returns:

27 Stated need for the bill

28 According to the author:



1 Throughout his campaign, President Donald Trump refused  
2 to release his tax returns even as his Republican,  
3 Democratic and third-party opponents did so.

4  
5 Releasing tax returns to the public is a long held tradition  
6 by all major party Presidential candidates in the modern  
7 era. This practice assured the public that all potential  
8 Presidential candidates were complying with the  
9 emoluments clause.

10  
11 The American public deserves to know that the individual  
12 they are selecting to be president will have their best  
13 interest at the heart of every decision, not the best interests  
14 of any business venture or investment fund. Transparency  
15 is a non-partisan issue.

16  
17 There are pressing questions for voters to have answered  
18 before an election, because unlike members of Congress  
19 and federal appointees, presidents are largely exempt from  
20 conflict-of-interest  
21 laws.

22  
23 Voters not only deserve full disclosure of their future  
24 leader's tax  
25 returns, they should be entitled to them.

26 (*See file:///C:/Users/ma/Downloads/201720180SB149\_Senate%20Judiciary\_.pdf*

27 26. The comments at page 5 of the bill analysis of SB 27 dated March 15,  
28 2019 by Senate Elections And Constitutional Amendments Committee contains the

1 identical statement by the SB 27's author. (*See*  
2 [https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201920200S](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200S)  
3 B27.)

4 **C. The Provisions Of The Trump Ballot Act**

5 **1. The Act Requires Production Of Presidential Primary**  
6 **Candidates' Tax Returns In Order To Obtain Ballot Access**

7 27. The Trump Ballot Act amends certain provisions of the California  
8 Elections Code governing the criteria and conditions by which candidates' names  
9 appear on the presidential primary ballot. Pursuant to the Act, Presidential  
10 candidates would have to submit copies of their federal income tax returns for the  
11 five most recent taxable years to the California Secretary of State's Office in addition  
12 to meeting all other ballot access requirements. The Act provides that the Secretary  
13 of State shall not print the name of a candidate for President of the United States on a  
14 primary election ballot unless the candidate, within a reasonable time frame  
15 established by the Secretary of State, files with the Secretary of State a copy of  
16 every income tax return the candidate filed with the Internal Revenue Service (IRS)  
17 in the five most recent taxable years. After redacting the returns for privacy purposes,  
18 the Secretary of State would make the returns available to the public through its  
19 website. Presidential primary candidates could refuse to submit their tax returns, but  
20 would then have to proceed only on a write-in basis – they would be excluded from  
21 the printed ballot and thus effectively precluded from prevailing in the primary.

22 28. The Act defines "income tax return" as any tax or information return,  
23 declaration of estimated tax, or claim for refund required by, or provided for or  
24 permitted under, the provisions of the Internal Revenue Code, and that is filed on  
25 behalf of, or with respect to any person, and any amendment or supplement thereto,  
26 including supporting schedules, attachments, or lists that are supplemental to, or part  
27 of, the filed return.

28

1           29. If the candidate has not filed an income tax return with the IRS for the  
2 tax year immediately preceding the primary election, the candidate shall submit a  
3 copy of the income tax return to the Secretary of State within five days of filing the  
4 return with the IRS. The tax return production requirement does not apply to any  
5 year in which the presidential primary candidate was not required to file an income  
6 tax return with the IRS.

7           30. Finally, the Act requires the Secretary of State to adopt implementing  
8 regulations, and contains an "urgency clause."

9 (*See*

10 [http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200SB27](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB27))

11                           **2. The Act Supposedly Is Predicated On A Compelling State**  
12                           **Need For Primary Voters To Obtain Presidential Candidate**  
13                           **Tax Information**

14           31. In enacting the Trump Ballot Action, the bill states, in pertinent part,  
15 that the Legislature finds and declares all of the following:

16           a) The State of California has a strong interest in ensuring that its  
17 voters make informed, educated choices in the voting booth, and to this  
18 end, the state has mandated that extensive amounts of information be  
19 provided to voters, including county and state voter information guides;

20           b) A presidential candidate's income tax returns provide voters with  
21 essential information regarding the candidate's potential conflicts of  
22 interest, business dealings, financial status, and charitable donations;  
23 therefore, the information in tax returns helps voters to make a more  
24 informed decision;

25           c) As one of the largest centers of economic activity in the world, the  
26 State of California has a special interest in the President refraining from  
27 corrupt or self-enriching behaviors while in office and the people of  
28 California can better estimate the risks of any given Presidential candidate

1 engaging in corruption or the appearance of corruption if they have access  
2 to candidates' tax returns;

3 d) The State of California has an interest in ensuring that any  
4 violations of the Foreign Emoluments Clause of the U. S. Constitution or  
5 statutory prohibitions on behavior such as insider trading are detected and  
6 punished and mandated disclosure of Presidential candidates' tax returns  
7 will enable enforcement of the laws against whichever candidate is elected  
8 President; and

9 e) compliance costs with this requirement will be trivial.

10 **VII. CONCISE SUMMARY OF THE REASONS WHY THE TRUMP**  
11 **BALLOT ACT IS UNCONSTITUTIONAL**

12 32. As stated at the outset, the right to vote is a uniquely precious  
13 constitutional right. *Harper v. Va. State Bd. of Elections*, 383 U.S. 663, 670 (1966).  
14 It is "protective of all fundamental rights and privileges." *Evans v. Cornman*, 398  
15 U.S. 419, 422 (1970). Free speech rights, especially during a political campaign, are  
16 also fundamental rights. *See, e.g., Gitlow v. New York*, 268 U.S. 652, 666 (1925);  
17 *Illinois State Board of Elections v. Socialist Workers Party*, 440 U.S. 173, 184  
18 (1979) ("Restrictions on access to the ballot burden two distinct and fundamental  
19 rights, the right of individuals to associate for the advancement of political beliefs,  
20 and the right of qualified voters, regardless of their political persuasion, to cast their  
21 votes effectively") (internal quotation marks omitted); *see also Citizens United v.*  
22 *Fed. Elec. Comm'n*, 558 U.S. 310 at 339 (2010) ("The First Amendment has its  
23 fullest and most urgent application to speech uttered during a campaign for political  
24 office") (internal citations and quotation marks omitted); *Ariz. Libertarian Party v.*  
25 *Reagan*, 798 F.3d 723, 728-29 (9th Cir. 2015).

26 33. By this federal § 1983 constitutional lawsuit, a California voter and  
27 taxpayer, and registered Republican (Mr. Lykins), challenges the constitutionality of  
28 the Trump Ballot Act on the ground that its tax return production requirement

1 constitutes an impermissible state-imposed condition for the eligibility of  
 2 Presidential candidates in violation of the Qualifications Clause of the United States  
 3 Constitution (art. I, § 2, cl. 2), which on its face provides only three such conditions  
 4 (age of 35, natural-born citizen, 14 years continuous residency in the United States).  
 5 Additionally, the Trump Ballot Act impermissibly interferes with the minority party's  
 6 Presidential primary election and process, and also unreasonably restricts Mr. Lykins'  
 7 right to vote and to associate with other like-minded voters in Republican  
 8 presidential primaries, in violation of the First and Fourteenth Amendments to the  
 9 United States Constitution, and his rights under 28 U.S.C. § 1983.

10       34. Assuming, *arguendo*, that the Anderson/Burdick balancing test applies  
 11 to the primary ballot access conditions imposed by the Trump Ballot Act (Anderson  
 12 v. Celebrezze, 460 U.S. 780 (1983), and Burdick v. Takushi, 504 U.S. 428 (1992),  
 13 Plaintiff alleges that the magnitude of the burden imposed on Republican primary  
 14 voters (and non-Republican voters who may wish to register as Republicans)  
 15 substantially outweighs California's purported justifications for the law, moving the  
 16 needle towards a strict scrutiny evaluation of the Trump Ballot Act and its  
 17 invalidation on constitutional grounds.

18       35. The Trump Ballot Act does not impose only "reasonable,  
 19 nondiscriminatory restrictions" upon the First and Fourteenth Amendment Rights of  
 20 voters. Instead, unless President Trump turns over his tax returns for the last five  
 21 years in the next four months (by November 26, 2019), nearly five million California  
 22 citizens and voters who are registered with the Republican Party will be effectively  
 23 disenfranchised from voting in the presidential primary for the incumbent President  
 24 of the United States. According to official voter registration statistics published by  
 25 Secretary Padilla, as of February 10, 2019 (the most recent reporting date) there were  
 26 8,612,368 registered Democratic voters in California (43.1%) and 4,709,851  
 27 registered Republican voters (23.6%). (*See* <https://elections.cdn.sos.ca.gov/ror/ror-odd-year-2019/historical-reg-stats.pdf>.)  
 28



1           36. The purported informational benefits that supposedly would accrue to  
2 voters from the production of tax returns from presidential candidates, as opposed to  
3 the information already available from other sources, including the candidates'  
4 federal election financial disclosures, pales in comparison to the profound harm that  
5 would be suffered by nearly 5 million Republican voters whose preferred presidential  
6 candidate – the incumbent President of the United States – would be excluded from  
7 their own party's primary Presidential election ballot. This out-of-skew imbalance of  
8 "harms and benefits" is underscored by the fact that voters who are concerned about  
9 the failure of President Trump, or any other Presidential candidate, to disclose their  
10 tax returns. have a simple and effective remedy: DON'T VOTE FOR HIM OR HER.

11           37. President Trump has made abundantly clear he will not voluntarily  
12 disclose his confidential tax returns to the public. So the purported state interest in  
13 obtaining his tax return information (to detect conflicts of interests, or violations of  
14 the Emoluments Clause, etc.) is a red herring. Its true goal is not to gather additional  
15 presidential candidate tax return information, but rather to harm the President and his  
16 2020 reelection prospects, and to punish him and his supporters in California by in  
17 effect canceling their presidential primary. In this way, the Trump Ballot Act  
18 impermissibly interferes with the ability of Mr. Lykins and other Republican primary  
19 voters to promote the Presidential nominee of their choice by hampering Republican  
20 party decision-making in their own Presidential primary.

21           38. Additionally, Plaintiff alleges that the Qualifications Clause of the  
22 United States Constitution imposes only three requirements for presidential  
23 candidates: (1) he or she must be a natural born Citizen, (2) he or she must be at  
24 least 35 years old, and (3) he or she must have resided in the United States for at  
25 least fourteen years. Where does that leave room for individual state legislatures to  
26 impose a fourth requirement? Or a fifth? The State of California has no lawful  
27 authority to impose additional qualifications on a candidate for the office of  
28 President of the United States beyond those qualifications set forth in the



1 Qualifications Clause (U.S. Const., art. II, § 1, para. 5).

2 39. Defendants contend that the tax return production requirement for  
3 primary ballot access by Presidential candidates is a reasonable procedural regulation  
4 of the electoral process permitted under the Presidential Elections Clause (U.S.  
5 Const., art. II, § 1, para. 1-2) and applicable law. However, this ballot access law, if  
6 allowed to stand, would open the floodgates for California and 49 other states to  
7 impose additional "informational" primary ballot access restrictions that would  
8 impact the national electoral process, beyond their individual states. If the reasoning  
9 and purported justification by the California Legislature were correct and sufficient,  
10 then by the same reasoning California or any of the 49 other states could prohibit  
11 primary ballot access to Presidential candidates unless they produced their  
12 confidential medical records, psychiatric and therapist records, academic records,  
13 criminal records, family law records, or driving records. The conceivable list of  
14 "relevant" or "critical" information as a justification for denial of ballot access would  
15 have no limit, and state legislatures throughout the country would be able to impose  
16 limits on Presidential candidates based on naked political considerations as  
17 California has done in passing the Trump Ballot Act.

18 40. Allowing individual states to adopt their own qualifications for  
19 Presidential primary candidates for inclusion on Presidential primary ballots is  
20 inconsistent with the Framers' requirements for uniform standards for the  
21 qualifications of Presidential candidates, under the Presidential Qualifications Clause  
22 of the United States Constitution. If the qualifications set forth in the text of the  
23 Constitution are to be changed, that text must be amended; it cannot be done under  
24 the guise of reasonable procedural requirements for state elections under the  
25 Presidential Elections Clause (U.S. Const., art. II, § 1, para. 1-2).

26 41. The Trump Ballot Act is a state-imposed ballot access restriction that  
27 unconstitutionally promotes the twin goals of disadvantaging a particular class of  
28 candidates and voters – the minority party of Republicans in California – while



1 evading the dictates of the Qualifications Clause. The Trump Ballot Act is not an  
2 even-handed and fair law designed to increase voter information. The "applies to all"  
3 justification is wholly pretextual. The Trump Ballot Act has been imposed by the  
4 super-majority, Democrat-dominated Legislature and the "progressive " Democratic  
5 Governor, Gavin Newsom, in order to target and harm President Trump and his  
6 supporters in California. (The prior governor, Jerry Brown, recognized the flaws in  
7 a substantively identical 2017 law passed by the legislature, and vetoed it.) These  
8 government actors have specifically targeted this statute to disadvantage President  
9 Donald Trump and his millions of supporters in this State, in order to suppress  
10 Republican and conservative voter interest and intensity by eliminating President  
11 Trump from the primary election process, and thereby stifle voter enthusiasm for  
12 Republican candidates down-ballot for other state and local offices.

13 42. This case is about hyper-partisan government abuse of power in order to  
14 discourage the minority, opposing party's members and other conservative and  
15 independent supporters of the President, not just in the 2020 Presidential primary  
16 election, but in state and local elections also. If President Trump is excluded from  
17 the primary ballot, voters will be discouraged from participating in the primary  
18 election process at all, and likely from voting for candidates down-ballot.

19 43. California – effectively a one-party state – should not be permitted to  
20 impose conditions on Presidential primary contests that may impact other states'  
21 primary election procedures and outcomes. It is all too easy for the supermajority  
22 party to impose unreasonable conditions on the other party's primary elections under  
23 the pretext that the conditions apply evenly to all political parties. The Trump Ballot  
24 Act seeks to dictate the electoral outcome of the 2020 Presidential primary election,  
25 to favor Democrats and disfavor Republicans, and to evade important constitutional  
26 restraints under the Qualifications Clause and First and Fourteenth Amendments to  
27 the United States Constitution. It should be declared unconstitutional forthwith,  
28 before almost 5 million Republican voters are irreparably harmed.

1 **VIII. CLAIM FOR RELIEF (FOR A DECLARATORY JUDGMENT AND**  
2 **INJUNCTIVE RELIEF FOR VIOLATION OF PLAINTIFF'S FIRST**  
3 **AND FOURTEENTH AMENDMENT RIGHTS UNDER 42 U.S.C. §**  
4 **1983)**

5 44. Plaintiff restates and incorporates by reference the allegations contained  
6 in the preceding paragraphs of this Complaint.

7 45. Plaintiff seeks a declaration by this Court under 28 U.S.C. §§ 2201 and  
8 2202 that the Trump Ballot Act is unconstitutional under the First and Fourteenth  
9 Amendments to the United States Constitution. An actual controversy exists in that  
10 Plaintiff contends, and Defendants State of California and Secretary Padilla dispute,  
11 that the Trump Ballot Act violates the Presidential Elections Clause (U.S. Const., art.  
12 II, § I, para. 1-2) and the Presidential Qualifications Clause (U.S. Const., art. II, § 1,  
13 para. 5) by imposing an unconstitutional condition for inclusion on Presidential  
14 primary ballots in the State of California.

15 46. In so doing, Plaintiff contends, and Defendants dispute, that the Act  
16 imposes an undue burden on the voting and associational rights of California citizens  
17 who wish to vote for the presidential candidate put forth by their chosen political  
18 party, wholly out of proportion to whatever benefits would be derived from increased  
19 tax information disclosure by presidential primary candidates; and, further, that the  
20 supposedly even-handed application of the tax return disclosure requirement is a  
21 pretext designed to mask the invidious partisan goal to suppress Republican voter  
22 enthusiasm and turnout in the 2020 Presidential primary election, to interfere with and  
23 undermine the primary electoral process, to dampen voter turnout in California and  
24 other states, and to depress voters participation in "down-ballot" state and local  
25 political contests.

26 47. Preliminary and permanent injunctive relief, barring the implementation  
27 of the Trump Ballot Act (Cal. Elections Code §§ 6880 *et seq.*), is particularly  
28 warranted given the exigent timing requirements the Act imposes, in conjunction

1 with the Prime Time Primary Act (Cal. Elections Code §§ 316 *et seq.*). Elections  
2 Code § 6883 requires presidential candidates to produce the prior 5 years' of their tax  
3 returns not later than 98 days before the March 3, 2020 primary; *i.e.*, not later than  
4 November 26, 2019. That is less than four months after the Trump Ballot Act was  
5 signed into law. (*See*  
6 [http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200SB27](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB27)).  
7 This timing exigency has created inordinant pressure and inconvenience for voters  
8 harmed by this partisan legislation to retain counsel, mount a defense, and seek  
9 injunctive relief.

10 **IX. PRAYER**


11 WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in  
12 his favor and against Defendants, and award the following relief:

- 13 A. Pursuant to 28 U.S.C. §§ 2201 and 2202, enter a declaratory judgment  
14 declaring that the Trump Ballot Act violates the First and Fourteenth  
15 Amendments of the United States Constitution, both on its face and as applied  
16 to Plaintiff, as well as the Presidential Elections Clause and the Presidential  
17 Qualifications Clause of article II, section 1 of the United States Constitution;
- 18 B. Preliminarily and permanently enjoin Defendants, their officers, agents,  
19 servants, employees, and attorneys, and those persons in active concert or  
20 participation with them who receive actual notice of the injunction, from  
21 enforcing the Trump Ballot Act;
- 22 C. Award Plaintiff the reasonable attorneys' fees, costs, and expenses of  
23 this action in accordance with 42 U.S.C. § 1988 and any other applicable  
24 authority; and
- 25 D. Grant Plaintiff such other relief as this Court may deem just and proper.
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DATED: August 5, 2019

MARK ANCHOR ALBERT & ASSOCIATES

By:   
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Mark Anchor Albert

Attorneys for Plaintiff TIMOTHY D.  
LYKINS



